

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MMCA GROUP LTD.,

Plaintiff,

v.

HEWLETT-PACKARD COMPANY, et al.,

Defendants.

No. C-06-7067 MMC

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
ADMINISTRATIVE MOTION TO SEAL**

Before the Court is defendant PICA Corporation's ("PICA") "Administrative Motion to Seal Declarations and Attached Exhibits Filed in Support of Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment," filed December 24, 2008. Having read and considered the motion and the Declaration of William C. Acevedo in support thereof ("Acevedo sealing declaration"), the Court rules as follows.

1. With respect to Exhibit D to the Declaration of William C. Acevedo in support of PICA's motion for summary judgment ("Acevedo summary judgment declaration"), the motion is GRANTED.

2. With respect to the Declaration of Rodolfo Diaz ("Diaz declaration"), the Declaration of Rocio Cvar ("Cvar declaration"), the Declaration of Gabriela Toranzo ("Toranzo declaration"), the Declaration of Renata Martinho ("Martinho declaration"), the Declaration of Mauro Chavez ("Chavez declaration") and exhibits A and B thereto, the

1 Declaration of Vince Volpi (“Volpi declaration”), the Acevedo summary judgment
2 declaration, and the unredacted version of PICA’s memorandum in support of its motion for
3 summary judgment,¹ the motion is DENIED, for the reason that PICA has failed to file a
4 declaration establishing said documents are sealable. See Civ. L.R. 79-5(b)(1). The Court,
5 however, will afford PICA an opportunity to supplement its showing with respect to said
6 documents.

7 3. With respect to exhibit B to the Acevedo summary judgment declaration, the
8 motion is DENIED. PICA states said document “[has] not been designated confidential by
9 any party” (see Acevedo sealing decl. ¶ 7), and PICA’s concern that MMCA “may assert” it
10 contains protected material (see id.) is not a sufficient showing. See Civ. L.R. 79-5(b)(1).

11 4. With respect to exhibits A through H to the Diaz declaration, exhibits A and B to
12 the Cvar declaration, exhibit A to the Toranzo declaration, and exhibits A and B to the
13 Martinho declaration, the motion is DENIED, for the reason that PICA’s statement that said
14 documents have been designated “confidential” or “highly confidential – attorneys’ eyes
15 only” pursuant to the parties’ stipulated protective order (see Acevedo sealing decl. ¶¶ 3-6,
16 8) is insufficient to establish the documents are sealable. See, e.g., Civ. L.R. 79-5(a)
17 (providing “[a] stipulation, or a blanket protective order that allows a party to designate
18 documents as sealable, will not suffice to allow the filing of documents under seal”). The
19 Court, however, will afford PICA an opportunity to supplement its showing with respect to
20 said documents.

21 5. With respect to exhibit B to the Toranzo declaration, the motion is DENIED, for
22 the reason that, contrary to PICA’s assertion, said document has not previously been filed
23 under seal in the instant action and, in fact, was filed in the public record on October 31,
24 2008. (See Smart decl. filed Oct. 31, 2008, Ex. P.)

25
26 ¹Although PICA’s memorandum in support of its motion for summary judgment is not
27 referenced in the instant motion, an unredacted version of said memorandum has been
28 submitted for filing under seal and has not been filed in the public record. Accordingly, the
Court construes the instant motion to include a request to file the unredacted version of the
memorandum under seal.

1 6. With respect to exhibits C and E to the Acevedo summary judgment declaration,
2 the motion is DENIED. PICA states said documents either have been designated “highly
3 confidential – attorneys’ eyes only” pursuant to the parties’ stipulated protective order, “or
4 have otherwise been filed under seal.” (See Acevedo sealing decl. ¶ 8.) As noted,
5 however, a designation of “highly confidential – attorneys’ eyes only” is insufficient to
6 establish the documents are sealable. Additionally, said documents have not previously
7 been filed under seal in the instant action and, in fact, were filed in the public record on
8 November 22, 2008 and October 31, 2008, respectively. (See Smart decl. filed Nov. 22,
9 2008, Ex. A; Smart Decl. filed Oct. 31, 2008, Ex. H.)

10 The Clerk shall not file any of the above-referenced documents at this time. As
11 noted, with respect to the documents referenced in paragraphs 2 and 4, supra, the Court
12 will afford PICA an opportunity to supplement its showing. Specifically, PICA may file, no
13 later than January 5, 2009, a declaration establishing said documents are sealable. After
14 PICA files such declaration, or after the time for such filing has passed without the
15 declaration having been filed, the Clerk will be directed to file under seal all of the above-
16 referenced documents that the Court has found to be sealable. If, at that time, PICA
17 wishes the Court to consider any documents not found to be sealable, PICA shall file such
18 documents in the public record.

19 **IT IS SO ORDERED.**

20 Dated: December 29, 2008


MAXINE M. CHESNEY
United States District Judge